

House Bill 1497 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 126th, Chambers of the 81st, Burkhalter of the 50th, and Benfield of the 85th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 8 of Title 4 of the Official Code of Georgia Annotated, relating to dogs, so as to provide for requirements for persons who own vicious dogs; to provide for a short title; to provide for definitions; to provide for requirements for possessing a vicious dog; to provide for restrictions on permitting vicious dogs to be outside of proper enclosures; to provide for confiscation of vicious dogs under certain circumstances; to provide for penalties; to provide that the article is supplementary to other laws; to provide for liability for damages; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 4 of the Official Code of Georgia Annotated, relating to dogs, is amended by adding a new article to the end of the chapter to read as follows:

"ARTICLE 3

4-8-40.

This article shall be known and may be cited as the 'Mercedes' Law.'

4-8-41.

(a) As used in this article, the term:

(1) 'Dog control officer' means an individual selected by a local government pursuant to the provisions of subsection (c) of Code Section 4-8-22 to aid in the administration and enforcement of the provisions of Article 2 of this title.

(2) 'Local government' means any county or municipality of this state.

(3) 'Owner' means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a vicious dog within this state.

(4) 'Proper enclosure' means an enclosure for keeping a vicious dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and a secure top, and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog.

(5) 'Severe injury' means any physical injury that results in broken bones, disfiguring lacerations requiring multiple sutures or cosmetic surgery, or a physical injury that results in death.

(6) 'Vicious dog' means any dog that:

(A) Inflicts a severe injury on a human being without provocation after the owner has notice that the dog has previously bitten or attacked or endangered the safety of a human being; or

(B) Is owned, possessed, kept, harbored, trained, or maintained for the purpose of fighting.

Such term shall not include a dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be a vicious dog if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

4-8-42.

(a) It is unlawful for an owner of a vicious dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a leash and is under the physical restraint of a responsible person.

(b) A vicious dog shall be immediately confiscated by the dog control officer or by a law enforcement officer or by another person authorized by the dog control officer if the:

(1) Vicious dog is not maintained in a proper enclosure; or

1 (2) Vicious dog is outside a proper enclosure in violation of subsection (a) of this Code
2 section.

3 (c) Any dog that has been confiscated under the provisions of subsection (b) of this Code
4 section shall be returned to its owner upon the owner's compliance with the provisions of
5 this article and upon the payment of reasonable confiscation costs. In the event the owner
6 has not complied with the provisions of this article within 40 days of the date the dog was
7 confiscated, said dog shall be destroyed in an expeditious and humane manner.

8 4-8-43.

9 (a) The owner of a vicious dog who violates Code Section 4-8-42 shall be guilty of a
10 misdemeanor. In addition to any confinement that might be imposed for a conviction under
11 this subsection, for the second conviction a fine of not less than \$300.00 shall be imposed
12 and for a third or subsequent conviction a fine of not less than \$500.00 shall be imposed.

13 (b) If an owner who has a previous conviction for a violation of this article knowingly and
14 willfully fails to comply with the provisions of this article, such owner shall be guilty of
15 a misdemeanor of high and aggravated nature if the owner's vicious dog attacks, bites,
16 causes severe injury, or causes the death of a human being under circumstances constituting
17 another violation of this article.

18 (c) In addition to the penalties for violations under subsection (b) of this Code section, the
19 vicious dog involved shall be immediately confiscated by the dog control officer or by a
20 law enforcement officer or another person authorized by the dog control officer and placed
21 in quarantine for the proper length of time as determined by the county board of health, and
22 thereafter, the vicious dog shall be destroyed in an expeditious and humane manner.

23 4-8-44.

24 (a) The provisions of this article are in addition to and supplementary of any previously
25 existing laws of this state and shall not be construed to repeal or supersede such previously
26 existing laws.

27 (b) It is the intention of this article to establish as state law minimum standards and
28 requirements for the control of vicious dogs and to provide for certain state crimes for
29 violations of such minimum standards and requirements. However, this article shall not
30 supersede or invalidate existing ordinances or resolutions of local governments or prohibit
31 local governments from adopting and enforcing ordinances or resolutions which provide
32 for more restrictive control of dogs, including a more restrictive definition of a vicious dog,
33 than the minimum standards and requirements provided for in this article.

1 4-8-45.

2 Under no circumstances shall a local government or any employee or official of a local
3 government which enforces or fails to enforce the provisions of this article be held liable
4 for any damages to any person who suffers an injury inflicted by a dog that has been
5 identified as a vicious dog or by a dog that has been reported to the proper authorities as
6 being a vicious dog or by a dog which has been identified as a vicious dog but has not been
7 kept or restrained in the manner described in subsection (a) of Code Section 4-8-42."

8 **SECTION 2.**

9 All laws and parts of laws in conflict with this Act are repealed.